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UNITED STATE BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:)	Case No. BK-S-06-10725-LBR
)	Case No. BK-S-06-10726-LBR
USA COMMERCIAL MORTGAGE COMPANY,)	Case No. BK-S-06-10727-LBR
)	Case No. BK-S-06-10728-LBR
Debtor.)	Case No. BK-S-06-10729-LBR

In re:)	Chapter 11
USA CAPITAL REALTY ADVISORS, LLC,)	
)	Jointly Administered Under
Debtor.)	Case No. BK-S-06-10725-LBR

In re:)
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,)
)
Debtor.)

In re:)
USA CAPITAL FIRST TRUST DEED FUND, LLC,))
)
Debtor.)

In re:)
USA SECURITIES, LLC,)
)
Debtor.)

Affects:)
<input type="checkbox"/> All Debtors)
<input checked="" type="checkbox"/> USA Commercial Mortgage Company)
<input type="checkbox"/> USA Securities, LLC)
<input type="checkbox"/> USA Capital Realty Advisors, LLC)
<input type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC)
<input type="checkbox"/> USA First Trust Deed Fund, LLC)

Date: June 15, 2006
 Time: 10:00 a.m.

**DECLARATION OF SCOTT K. CANEPA IN SUPPORT OF
 MOTION FOR RELIEF FROM THE AUTOMATIC STAY
 TO TERMINATE LOAN SERVICING AGREEMENT
 FOR DIRECT LOAN TO BOISE/GOWAN, LLC**

1 Scott K. Canepa, makes the following statements:

2 1. I am a Direct Lender to Boise/Gowan 93 LLC ("Boise/Gowan") for a loan that was
3 brokered by USA Commercial Mortgage Company ("USA Commercial"). I have personal
4 knowledge of the facts recited herein, I am competent to testify regarding them if called as a witness
5 in this matter. except with respect to those matters stated herein on information and belief, and as
6 to those matters, I believe them to be true.

7 2. I make this Declaration in support of my Motion for Relief from the Automatic Stay
8 to Terminate the Loan Servicing Agreement for Direct Loan to Boise/Gowan, LLC.

9 3. In August of 2005, I loaned Boise/Gowan One Million Two Hundred Fifty Thousand
10 (\$1,250,000.00) and no/100 Dollars as a participating lender in a loan for the total principal amount
11 of Two Million One Hundred Fifty Thousand (\$2,150,000.00) and no/100 Dollars. An authentic
12 copy of my August 17, 2005 check written to fund this loan is attached as Exhibit B. I am the largest
13 participating lender in the Boise/Gowan loan, and my loan represents more than fifty-eight (58%)
14 percent of the total dollar amount borrowed by Boise/Gowan.

15 4. Authentic copies of the Boise/Gowan Promissory Note dated August 26, 2005 and
16 Deed of Trust recorded August 31, 2005 are attached as Exhibit C and Exhibit D to this Declaration.
17 Exhibit A to the Promissory Note expressly identifies my \$1,250,000.00 loan to Boise/Gowan, and
18 Exhibit A to the Deed of Trust expressly acknowledges that I am a beneficiary of the Deed of Trust
19 for the amount of my loan to Boise/Gowan. *Id.*

20 5. For more than ten years, I have been a Direct Lender in a number of loans brokered
21 and serviced by USA Commercial. When I made my first loan as a Direct Lender, I entered into a
22 Loan Servicing Agreement with USA Commercial. I have not been able to locate a copy of my Loan
23 Servicing Agreement; however, I am informed and believe that USA Commercial has the original
24 document in its files. As explained in Paragraph 28 of the May 3, 2006 Declaration of Thomas J.
25 Allison ("Allison Declaration"), prior to 2004, the standard form Loan Servicing Agreement
26 permitted USA Commercial to collect a one percent (1%) servicing fee in a form that I believe is in
27 all other respects identical to Exhibit C to the Allison Declaration. To the best of my recollection,
28 I believe that in my Loan Servicing Agreement, USA Commercial was entitled to receive an annual

1 servicing fee in the amount of one percent (1%) of the maximum principal amount of each loan
2 serviced for me as a Direct Lender.

3 6. I do not have a copy of the Loan Servicing Agreement that I signed with USA
4 Commercial. However, I am informed and believe that USA Commercial has possession of the
5 original fully executed copy of that document. Other than the fact that my loan servicing fee is one
6 percent (1%) and not three percent (3%), my Loan Servicing Agreement is essentially identical to
7 Exhibit C to the Allison Declaration. I therefore adopt Exhibit C to the Allison Declaration as a
8 representation of the Loan Servicing Agreement that I entered into with USA Commercial, and I
9 attach that Agreement and the Allison Declaration (and Exhibit A) as Exhibit E and Exhibit G to this
10 Declaration for the Court's convenience.

11 7. On August 17, 2005, in conjunction with my Direct Loan to Boise/Gowan, I signed
12 a Special Power of Attorney granting USA Commercial the right to perform certain services related
13 to the Boise/Gowan loan. An authentic copy of the Special Power of Attorney is attached as Exhibit
14 F.

15 8. In Paragraph 2 of the Loan Servicing Agreement, USA Commercial agreed to do the
16 following in connection with servicing each of my loans:

17 (c) Until the total amount due under each note is paid in full:

18 (i) Proceed diligently to collect all payments due
19 under the terms of the note and promptly pay the
20 proper parties, when and if due, principal, interest,
late charges, insurance and other specified funds.

21 Loan Servicing Agreement, Page 2, Paragraph 2(c) [emphasis added], Exhibit E.

22 9. Paragraph 3 of the Loan Servicing Agreement with USA Commercial grants me the
23 following remedy:

24 Rights of Lender if USA Fails to Act. Pursuant to NAC
25 645B.073, in the event of default, foreclosure or other matters that
26 require action, if for any reason USA fails to act on Lender's behalf
27 as authorized herein, then Lender may, with approval of fifty-one
percent (51%) or more of all of the holders of the beneficial interest
of record in the Loan, act on behalf of all such holders of beneficial
interest of record. These actions may include, but are not limited to:

1 (a) The designation of the mortgage
2 broker, servicing agent or other person to act on
3 behalf of the holders of the beneficial interests in the
4 loan; and

5 (b) The sale, encumbrance or lease of real
6 property owned by the holders resulting from a
7 foreclosure or the receipt of a deed in lieu of
8 foreclosure.

9 Loan Servicing Agreement, Pages 3-4, Paragraph 3 [emphasis added], Exhibit E.

10 10. Additionally, Paragraph 8 of the Loan Servicing Agreement grants me the following
11 rights of termination:

12 Termination. Lender may, by 30 days written notice to USA,
13 terminate this agreement, and the power of attorney granted, if one is
14 granted, under Section 11 of this Agreement, if USA fails to perform
15 its obligations thereunder.

16 Loan Servicing Agreement, Page 5, Paragraph 8, Exhibit E.

17 11. Although Mr. Allison has represented that the Boise/Gowan loan is a performing
18 loan, Exhibit G, Allison Declaration, USA Commercial has withheld my loan payments for April
19 and May of this year. Additionally, Mr. Allison has admitted in his Declaration (Exhibit G) and live
20 testimony before this Court on May 3, 2006 that USA Commercial Mortgage Company committed
21 pre-petition breaches of its contractual duties to Direct Lenders under the Loan Servicing Agreement
22 and its statutory fiduciary arising under NRS 645B.175 to Direct Lenders because USA Commercial
23 Mortgage did not separately escrow and account for funds received from investors and borrowers,
24 and it also failed to timely and accurately make disbursements to those persons entitled to receive
25 them.

26 12. USA Commercial Mortgage's failure to remit my March and April, 2006 payments,
27 coupled with the admissions by Mr. Allison demonstrate that USA Commercial Mortgage is in
28 breach of Paragraph 2(c)(i) of the Loan Servicing Agreement and that it has "failed to act," thereby
satisfying the predicate for my exercise of the remedies available to me under Paragraph 3 of the
Loan Servicing Agreement, quoted above. See Paragraphs 2(c)(i) and 3, Exhibit E. Consequently,
in my capacity as the holder of more than 58% of the beneficial interest in the Boise/Gowan loan,
I now exercise my right to immediately designate a new loan servicing agent for the Boise/Gowan

1 loan. Prior to the hearing of this Motion, I will serve and file a supplemental declaration that will
2 identify the new loan servicing agent and provide the relevant contact information.

3 13. Moreover, USA Commercial's breaches of the Loan Servicing Agreement and its
4 fiduciary obligations created under NRS 645B.175 likewise justify my exercise of the termination
5 remedy available under Paragraph 8 of the Loan Servicing Agreement. I therefore seek to terminate
6 the Loan Servicing Agreement and revoke the Power of Attorney for the Boise/Gowan loan in
7 accordance with the language of the Loan Servicing Agreement quoted above. See Paragraph 8,
8 Exhibit E.

9 I declare under penalty of perjury under the laws of the United States that the foregoing is
10 true and correct.

11 Dated: May 18, 2006.

12 /s/ Scott C. Canepa

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14 Scott C. Canepa
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